A STUDY OF PRINCIPLES OF STATUTORY INTERPRETATION WITH SPECIAL REFERENCE TO INTERPRETATION OF TAXATION STATUTES

A

SYNOPSIS/RESEARCH PROPOSAL
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TABLE OF CONTENTS

Sr. No.	Contents	Page No.
1.	INTRODUCTION	3
2.	PURPOSE OF CARRYING OUT PROPOSED RESEARCH WORK.	4
3.	REVIEW OF LITERATURE	4
4.	RESEARCH GAPS	5
5.	IMPORTANCE OF THE STUDY	5
6.	OBJECTIVES OF THE PROPOSED RESEARCH WORK	6
7.	HYPOTHESIS	6
8.	RESEARCH METHODOLOGY	7
9.	LIMITATIONS OF THE WORK	8
10.	EXPECTED OUTCOME	8
11.	THE SCHEME OF CHAPTERISATION I. Introduction and General principles of Statutory Interpretation. II. Internal and External aids to Interpretation. III. The Mischief Rule of Interpretation (Heydon's Rule) IV. Different parts of the Operation of a Statue V. Strict Construction of Taxing Statutes VI. Statues affecting Courts' jurisdiction VII. Expiry and Repeal of Statutes VIII. General Clauses Act, 1897	9

"Wherever there is a law, there will definitely be a statute, and, once there is statute, there are views on the wording in the statute, then arises the question as to which view is correct and which view is basic pleading to interpretation".

Hon'ble Shri. Justice P.S. Narasmiha
Judge, Supreme Court of India

Introduction to research topic

Interpretation of statutes is a specialised branch of legal studies. In this branch, the set of rules that regulate the interpretation of taxing enactments has been gradually acquiring practical importance. More reasons than one can be advanced in support of this proposition. In the first place, the spheres of human activities that are covered by taxes are now very wide. Gone are the days when land revenue and income tax were the two main taxes paid by the ordinary citizen. The State now taxes the holding of property, the transfer of property the derivation of income from the holding of property, the derivation of profits (capital gains) from its transfer and so on.

As regards income, it may be taxed, not merely in the hands of its actual recipient, but as a 'deemed income' of the recipient's spouse or parent. There are several such instances of legal fictions introduced in taxation law. Legal fictions, when sought to be employed, naturally create problems of interpretation. For, when an artificial concept is superimposed on reality, questions are bound to arise how much of reality is effectively wiped off by the artificial creation of the law – how much is the impact of the fiction upon the real world. The human mind can grasp reality with some effort. But an artificial rule creates much greater strain upon the mind. The problem becomes still more acute if the same provision (or group of provisions) happens to comprise more than one fiction.

Purpose of carrying out proposed research work

The researcher selected this topic because of the practical utility. This topic will be useful to day to day practitioners of the Court. The researcher's consideration will be confined not only to help to obtain a clearer view of the process of interpretation in general, but to throw some light on the question in what cases strict construction of statutes is proper and under what circumstances the obvious meaning of the text should be extended by what is commonly called a liberal or broad interpretation to subject not at first glance covered by the wording of the Act.

Review of Literature

The researcher has decided to refer the following books.

1. Maxwell on Interpretation of Statutes.
2. Bennion on Statutory Interpretation.
3. Bennion, Bailey and Norbury on Statutory Interpretation.
4. Principles on Statutory Interpretation by Justice G.P. Singh.
5. Introduction to the Interpretation of Statutes by Avatar Singh
6. Interpretation of Statutes by N.S. Bindra.
7. The judgments of Hon'ble Supreme Court on the point of Interpretation of Statutes.

The researcher wants to review following provisions and concepts.

1. General principles of Interpretation of Statutes.
2. The conspectus of taxation under Article 265 of the Constitution of India.
3. Rules of interpretation for tax statutes.
4. The Income Tax Act, 1961.
5. The theory of State ..Vs.. Tax Payers.
6. The ambiguities and double taxation.

Research Gaps

The researcher after researching a lot on this subject has realized that if properly analysed, judicial construction of taxing statute is likely to yield some rules of interpretation. After proper analysing, these rules may reassert, modify depart from or add to the rules of interpretation of statute in general. Whatever be their precise effect vis-a-vis the general rules of statutory interpretation, they deserve a study, having regard to the increasing importance of taxing enactments in modern era.

Importance of the Study

Thus, the number and length of taxing enactments must increase the number of points of interpretation of taxation law. In this manner, the subject of interpretation of taxing statutes can well become a 'sub-speciality'. For doing justice to this sub-speciality, one needs a study that focusses attention on it – of course, against the background of the general law of statutory interpretation. Such a study is not intended to be a commentary on each taxing enactment. That would be a mere collection of commentaries on all taxing enactments in India. Such a compilation may have other uses, but it would not bring out prominently the salient rules of interpretation of taxing statutes. This study is premised on a slightly different approach. The hypothesis is that judicial construction of taxing statutes, if properly analysed, is likely to yield some rules of interpretation. These rules may reassert, modify depart from or add to the rules of interpretation of statutes in general. Whatever be their precise effect vis-a-vis the general rules of statutory interpretation, they deserve a study, having regard to the increasing importance of taxing enactments in the modern era, as stated above.

Objectives of the Proposed Research Work

The first objective of this study is to give a clear idea to day to day practitioner of law regarding liberal construction and strict construction of Interpretation of Statutes. The second objective of this study is to give an idea to every person who is a student of law about interpretation of a particular law. As per the opinion of the researcher a lawyer or any student of law should have a clear understanding about how to read a particular statute. Only after clear understanding about how to read a particular statute, any person would be successful in the field of law. Unclear understanding of reading and understanding statute can be a disaster for the client in a Court of law. In view of this the researcher has chosen this topic.

Hypothesis

1. The hypothesis is that judicial construction of taxing statutes, if properly analysed is still likely to yield strict construction of taxing enactments or not.

2. The hypothesis is that if interpretation of taxation statutes is open to doubt and two views are reasonably possible then the one more beneficial or favourable to the assesse should be adopted or not in the modern era.

3. The hypothesis is that the principle that a penal statute is to be strictly construed is of universal application.

Research Methodology

The intellectuals of the society are always inclined to probe for facts of the empirical world and confirm the proved truth of their investigation by expecting or correcting the existing theory. Such probing is called research. All research is collection of evidence or information for ascertaining and assumption or verifying some hypothesis. Thus, research is systematic attempt to push back the comprehension and seek beyond the horizons of our knowledge, some 'truth' or some 'reality'. We can say that research is a critical and exhaustive investigation or experimentation having as its aims the revision of expected conclusions in the light of newly discovered facts. In simple words, the research is an enquiry of search for the fact or truth. Investigation of every kind which is based on original source of knowledge may be tested as research. Legal phenomenon requires their own research methodology. Broadly, these methodologies have been classified into two categories. Viz. Doctrinal i.e. non-empirical and non-doctrinal i.e. empirical.

Considering the nature of topic selected, a purely doctrinal research may be sufficient. So, researcher proposes to use doctrinal research methodology for present topic.

Researcher proposes to carry out research on legal propositions by way of analyzing the existing statutory provisions and cases by applying the reasoning power. For the same data will be collected from primary sources and secondary sources. Primary sources also called original sources i.e. Acts of parliament. Acts passed by state legislature, Decisions delivered by Apex Court and High Courts (precedents). Secondary sources like text books on law. Articles online

journals, newspapers, commentaries do not possess as much authority as the original sources possess. Hence, quality of research depends upon the source material on which the researcher depends upon for his study. Researcher will prefer to rely on more of primary original sources throughout the research. Also, for expert opinions etc. secondary sources like for e.g. Journal articles from peer reviewed journals, as well as online generals along with commentaries, newspaper reports will be considered. Then researcher will adopt comparative analysis approach and analytical approach while dealing with situations and law.

Limitations of the Work

In this proposed research, the researcher would be going through the general principles of the interpretation and strict interpretation of taxing statutes keeping in view the relevant judgments of the Hon'ble Supreme Court.

Expected Outcome

After going through the relevant rules of interpretation of statutes, it prima facie appears that the Hon'ble Apex Court has every now and then stated about liberal interpretation of Welfare Laws and strict interpretation of Taxation Laws. It prima facie appears to the researcher that after culmination of research work, the statement of Hon'ble Apex Court about liberal interpretation of Welfare Law and strict interpretation of Taxation Laws would still hold the field.

THE SCHEME OF CHAPTERISATION

I. Introduction and General principles of Statutory Interpretation.

II. Internal and External aids to Interpretation.

III. The Mischief Rule of Interpretation
(Heydon's Rule)

IV. Different parts of the Operation of a Statue

V. Strict Construction of Taxing Statutes

VI. Statues affecting Courts' jurisdiction

VII. Expiry and Repeal of Statutes

VIII. General Clauses Act, 1897